

ESTTA Tracking number: **ESTTA613229**

Filing date: **07/01/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91215047
Party	Defendant Rock It Brands, LLC
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Date	07/01/2014
Attachments	Applicant's Answer to Notice of Opposition (91215047) (7.1.2014).pdf(111903 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re Application No. 85/401,311 filed on August 18, 2011, and published on August 27, 2013,
for the mark ROCK IT WORKOUTS & Design in Classes 5, 18, and 25.

ROCKIT BODY PILATES, LLC)	
)	
Opposer)	
)	
v.)	Opp. No. 91215047
)	
ROCK IT BRANDS, LLC)	
)	
Applicant)	

ANSWER TO NOTICE OF OPPOSITION

Applicant Rock It Brands, LLC (“Applicant”), in Answer to RockIt Body Pilates, LLC’s
 (“Opposer”) Notice of Opposition, hereby states as follows:

1. Applicant lacks the knowledge or information sufficient to respond to the
allegations in Paragraph 1 and therefore denies the same.
2. Applicant admits the allegations in Paragraph 2.
3. Applicant lacks the knowledge or information sufficient to respond to the
allegations in Paragraph 3 and therefore denies the same.
4. Applicant admits that the USPTO records reflect that Opposer owns U.S. Reg.
No. 4,333,576 registered May 14, 2013 for the mark ROCKIT BODY & Design for the services
stated in the registration with a stated first use date of January 1, 2009.
5. Applicant admits that the USPTO records reflect that Opposer owns U.S. Reg.
No.4,437,645 registered November 19, 2013 for the mark ROCKIT BODY for the goods stated
in the registration with a stated first use date of February 28, 2009.

6. Applicant lacks the knowledge or information sufficient to respond to the allegations in Paragraph 6 and therefore denies the same.

7. Applicant denies that the ROCKIT BODY marks identify and distinguish Opposer's goods and services from competing goods and services offered by others in the physical fitness industry. Applicant lacks the knowledge or information sufficient to respond to the remaining allegations in Paragraph 7 and therefore denies the same.

8. Paragraph 8 contains a typographical error in Applicant's description of goods in Class 25, which in fact covers "men's and women's clothing, namely, pants, shorts, jeans, t-shirts, polos, sweatshirts, tank tops, sweatpants, jackets, dresses, shirts, hats, headbands, underwear, swim wear, gym shorts, underwear and socks; footwear, namely, running shoes, sneakers." Applicant otherwise admits the remaining allegations in Paragraph 8.

9. Applicant denies the allegations in Paragraph 9.

10. Applicant denies the allegations in Paragraph 10.

11. Applicant denies the allegations in Paragraph 11.

12. Applicant denies the allegations in Paragraph 12.

13. Applicant denies the allegations in Paragraph 13.

AFFIRMATIVE DEFENSES

14. Opposer has failed to state a claim upon which relief may be granted.

15. Applicant's ROCK IT WORKOUTS & Design mark is not likely to cause confusion in the marketplace with Opposer's ROCKIT BODY marks because, *inter alia*, the marks are different in appearance, sound, connotation, and commercial impression.

16. Applicant reserves all affirmative defenses under Rule 8 of the Federal Rules of Civil Procedure, the Lanham Act, and any other defenses or counterclaims at law or in equity,


that may now exist or in the future be available based on discovery and further factual investigation in this case.

WHEREFORE, Applicant hereby requests that the Notice of Opposition be dismissed with prejudice.

Respectfully submitted,
ROCK IT BRANDS, LLC

Dated: July 1, 2014

By:

A handwritten signature in black ink, appearing to read "Diane M. Lambillotte", written over a horizontal line.

Diane M. Lambillotte, Esq.
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Attorneys for Applicant

CERTIFICATE OF SERVICE

It is hereby certified that the foregoing **Answer to Notice of Opposition** is being served on counsel for Opposer at the following address:

David K. Caplan
Kilpatrick Townsend & Stockton LLP
9720 Wilshire Blvd., Penthouse Suite
Beverly Hills, CA 90212

via First Class Mail, postage prepaid, and via electronic mail this 1st day of July 2014.



Linda Stetson